

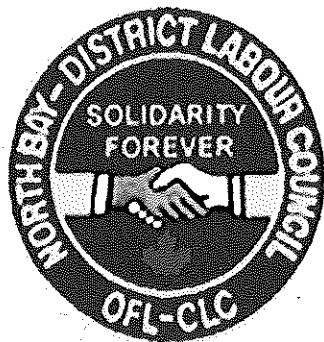
Ontario Ministry of Labour

# CHANGING WORKPLACES REVIEW

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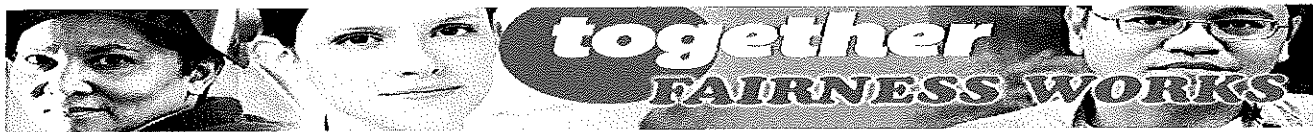
Public Consultation Meeting

Sudbury: July 23, 2015



Submitted by:  
North Bay and District Labour  
Council





## **Introduction**

On behalf of the North Bay and District Labour Council we thank you for this consultation to consider how the Labour Relations Act, 1995 and Employment Standards Act, 2000 could be amended to best protect workers while supporting businesses in our changing economy. With inequality and precarious work on the rise there is an increase of Ontario workers driven into poverty. Positive change to the Employment Standards Act could raise the floor for every worker in Ontario. An increase to minimum wage, paid sick days, increased vacation pay, an end to split shifts, equal treatment for temp agency workers and various other changes would put an end to precarious work.

## **Labour Law Reform**

As inequality and precarious work are on the rise, joining a union is a key path out of poverty for Ontario workers. Being unionized allows workers to take a role in improving their own working conditions and wages and it has the power to transform poorly paid jobs into decent jobs. Ontario's recently launched "Changing Workplaces Review" is a once-in-a-generation opportunity to modernize Ontario's outdated labour laws. However, this consultation process must hear about the experiences of workers throughout the province.

**RECOMMENDATIONS:** Modernize Ontario's Labour Relations Act to make it easier for employees to join a union without employer intimidation and the Employment Standards Act to ensure that every job is a decent job and every worker is treated fairly.

## **First Contract Arbitration**

While in principle most workers in Ontario have the right to associate for the purposes of collective bargaining, this is not always the case in practice due to barriers to reaching a first agreement. Across Canadian jurisdictions, first contract arbitration has been shown to create an incentive for the parties to reach a first agreement without resorting to work stoppages. Although existing legislation in Ontario provides for the settlement of a first contract through a process of arbitration, the threshold for accessing this route is still too high.

**RECOMMENDATION:** Adopt measures that provide additional routes to binding arbitration



## Anti-Scab Rules

By far, the majority of collective agreements are negotiated without labour disruptions. However, the actions of some employers result in strikes by unionized workers in order to achieve a fair contract. The use of replacement workers, or "scabs," undermines the collective bargaining process and unfairly weakens unions' ability to bring about a negotiated resolution.

The use of scabs and replacement workers prolongs labour disputes and escalates tensions. Using Scabs or Temporary Replacement Workers during a strike or lockout is damaging to a community's social fabric in the short and the long term, and damages the well-being of workers and the economy. The elimination of replacement workers will reduce the length and divisiveness of labour disputes, keep workers working and the economy growing

At Crown Holdings, which is Canada's leading manufacturer of aluminum cans, the workers have been on strike for more than 21 months because the profitable company demanded that wages be cut by 42 percent for all new hires. Instead of bargaining a fair deal with its long-time employees, Crown began busing in scabs and made increasingly worse offers to the union. Now Crown is insisting that even if an agreement is found, it intends to keep all the replacement workers and allow only about 25 percent of the strikers to return to work. Everyone else would be fired without cause or left in limbo.

Over 3500 members of the United Steel Workers walked the picket line for over a year because Vale Inco refused to negotiate a fair contract and instead turned to scab labour to continue production. The use of scabs in this strike, just like so many others, prolonged the hardship and devastated the community.

Small communities are gravely affected by the use of replacement workers. 16 municipal CUPE union workers were forced to the picket line faced with concessions and negative working conditions. These workers remained on strike for 10 months. Local scabs were utilized for road maintenance and landfill creating animosity to this small usual peaceful community.

In the North East, for example, Ontario Nurses Association RNs attempted to negotiate a collective agreement with CCAC North East management during a very cold winter this year. Bargaining was unsuccessful when the employer refused to negotiate wages. An offer of binding arbitration from ONA was refused by CCAC management. The RN workers had no choice; they were forced out onto the picket line for two weeks. ONA's negotiation story is a familiar one, indeed. What makes their labour dispute particularly disturbing was the multiple attempts by the employer during the critical days leading up to a strike vote to entice the potential strikers to cross the picket line. They exploited



the communicative nature of an on-line work environment by emailing workers during the eleventh hour of bargaining. The fact that the employer later erased manipulative emails is testament to the employer's control of the on-line workplace. CCAC Management's unethical approach to negotiate caused a great deal of confusion and ultimately lead to scab labour, because several workers crossed the line to work during the strike. RNs at CCAC work on the road and at home, enabled by a sophisticated and computerized workplace. In many cases, reporting to work means turning on and logging into a laptop, and documenting hour by hour their case work. Because of this technological fact, when CCAC enticed its workers to cross the picket line, they also implied that crossing would be easy since working from home is an alternate type of workplace. The scab workers and the unethical approach of CCAC directly prolonged the strike, toxifying the workplace, damaging relationships, and ultimately decreasing critical homecare. In this case, the workplace for nursing has changed so much during the last decade that it's very easy for supervisors to communicate to workers at any moment during the work day. Not a bad thing given the geography of Northern Ontario. But during collective bargaining, that's a different story. The Labour Relations Act needs stronger language to prevent unethical employers from exploiting the nature of on-line work and its workers during collective bargaining.

Québec and British Columbia have anti-scab laws today and the results are clear. The year after B.C. changed its *Labour Code*, the province realized a 50 percent drop in the amount of work-time lost to strikes. The number of work days lost each year in Québec due to labour disputes is about half of the national average. Ontario also gained anti-scab legislation in 1993, but it was clawed back in 1996 when the Mike Harris Conservatives gutted the province's Labour Relations Act.

**RECOMMENDATION:** Remove the ability of employers to use scabs or replacement workers to grind down striking workers results in smoother labour relations and shorter disputes with less risk to everyone involved. The use of replacement workers be prohibited during strike and lockouts

### Fairness in Employment Standards

A decent minimum wage is a central part of lifting workers out of poverty, but there are many other changes that need to be made to reverse the trend towards low-wage and precarious work. Workers need hours that they can live on, paid sick days so they can afford to get well, better protections from reprisals and easier access to unionization, and laws that protect everyone and are enforced.

**RECOMMENDATION:** Protect vulnerable and precarious workers by ensuring that:

- All temp agencies pay workers at the same rate and benefits as permanent employees;
- Client companies are responsible for wage theft by agencies or sub-contractors; and



- implemented with respect to paid sick days, hours of work, scheduling, job security, proper enforcement of labour and employment laws, and safeguards for temporary and contract employees.

The North Bay and District Labour Council entrust you to take this opportunity to modernize Ontario's labour laws to improve working conditions and wages to ensure every job is a decent job while every worker is treated fairly throughout the province.

President  
North Bay & District Labour Council

A handwritten signature in cursive script that reads 'Henri Giroux'.

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